APPEAL NO. 033136
FILED JANUARY 27, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on October 29, 2003. The hearing officer determined, in regard to (Docket No. 1), that the appellant (claimant) did not sustain a compensable repetitive trauma injury of (date of injury for docket no. 1); that the claimant did not have disability from any injury sustained on (date of injury for docket no. 1); and that the claimed injury of (date of injury for docket no. 1), extends to and includes right flexor tenosynovitis/tendonitis associated with initial carpal tunnel syndrome (CTS). With regard to (Docket No. 2), the hearing officer determined that the claimant did not sustain a compensable repetitive trauma injury of (date of injury for docket no. 2); that the claimant did not have disability from any injury sustained on (date of injury for docket no. 2); and that the claimed injury of (date of injury for docket no. 2), extends to and includes left flexor tenosynovitis/tendonitis associated with CTS. The hearing officer's determinations on the extent-of-injury issues have not been appealed and have become final.

The claimant appeals the determinations of no compensable repetitive trauma injuries for both the January 2 and March 17, 2003, claimed injuries and disability on sufficiency of the evidence grounds, citing reports of doctors that might lead to different conclusions. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, basically an order puller, testified about a back injury that she sustained in 1999. The claimant returned to work for the employer in June or July 2002. The claimant worked different jobs until early December 2002, when she began pulling or filling orders. In evidence are two videos which illustrate the claimant's jobs at the times she alleged that she sustained the repetitive trauma injuries. The videos were shown at the CCH and the claimant as well as the carrier's witnesses testified about what was occurring. The claimant reported a right upper extremity injury on January 15, 2003, (with a (date of injury for docket no. 1), date of injury). The claimant saw her treating chiropractor on January 15, 2003, and was taken off work on January 28, 2003. The claimant returned to work on March 10, 2003, at light duty. After being reprimanded on either March 14 or March 17, 2003, the claimant reported a left hand injury on March 17, 2003. The claimant continued working on restricted duties until her treating doctor took her off work completely on April 30, 2003.

The hearing officer appeared to base his decisions largely on the videotapes. The hearing officer commented that the videos showed the claimant's duties were "monotonous, even repetitive" but they were "[n]ot in the least" traumatic. The hearing officer, in his Statement of the Evidence, comments on how he reached his conclusions.

The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she had disability as defined by Section 401.011(16). The hearing officer did not err in determining that the claimant had not sustained a compensable repetitive trauma injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was persuaded that the claimant had not sustained her burden of proving that she sustained a repetitive trauma injury as a result of performing her job duties with the employer. Because we are affirming the hearing officer's determination that the claimant had not sustained a compensable repetitive trauma injury, the claimant would not have disability as defined by Section 401.011(16). Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.

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Thomas A. Knapp
Appeals Judge

CONCUR:

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Elaine M. Chaney
Appeals Judge

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Gary L. Kilgore
Appeals Judge